# In the Supreme Court of the United States

OCTOBER TERM, 1974

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No. 74-526

RONALD DEAN STOLLINGS, PETITIONER

*v.*

UNITED STATES OF AMERICA

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*ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT*

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**MEMORANDUM FOR THE UNITED STATES IN OPPOSITION**

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Petitioner's sole contention is that hearsay statements of his co-conspirators were improperly admitted into evidence against him.

After a jury trial in the United States District Court for the Southern District of West Virginia, petitioner was convicted of conspiracy to obtain and distribute counterfeit twenty dollar bills, in violation of 18 U.S.C. 371. He was sentenced to a term of five years' imprisonment. The court of appeals affirmed (Pet. App. A).

The evidence showed that on several occasions prior to December 10, 1970, Charles Scaggs, Fletcher Ramey, James Workman, and Kermit Stollings (petitioner's brother) discussed traveling to Cleveland, Ohio, from

Logan County, West Virginia, to obtain counterfeit bills, which would be passed in Logan County (Tr. 44-45, 51-52).[1] On December 10, Scaggs and Workman drove to Cleveland from Logan County, and the following day they met with petitioner and Kermit Stollings at petitioner's home in Cleveland. Petitioner made a number of telephone calls in an effort to locate a source for counterfeit bills. The men thereupon went to a nearby tavern where petitioner hoped to locate someone who had access to counterfeit bills (Tr. 47-48, 243-244). Petitioner finally arranged to secure counterfeit bills from one Ernie Collins (Tr. 48, 244). Collins furnished Kermit Stollings with $8,000 in counterfeit twenty-dollar bills, of which Workman and Scaggs each were given $2,000. Petitioner instructed them on how to darken the color of the bills so that it would be difficult to detect that they were counterfeit (Tr. 58-59, 117-118). In appreciation for his services, Workman, Scaggs and Kermit Stollings gave petitioner four of the counterfeit bills (Tr. 245).

On December 12, 1970, Workman, Scaggs and Kermit Stollings returned to Logan County and began to disseminate the counterfeit bills. Individuals to whom Scaggs had given portions of his share of the bills were arrested when they attempted to pass the money (Tr. 53-54, 66, 127-134, 172-179, 182-186, 191-192).

Petitioner contends that "a vast quantity of hearsay testimony" (Pet. 2) was improperly admitted in evidence against him at trial.[2] The testimony complained of was elicited from individuals who were involved in passing the counterfeit money after co-defendants Workman, Scaggs,

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[1]We are lodging with the Clerk of this Court the three-volume transcript of trial ("Tr.").

[2]Petitioner made no timely objection to the admission of any evidence on hearsay grounds.

and Kermit Stollings returned from Cleveland. Petitioner apparently contends that the conspiracy in which he participated was confined to the procurement of the counterfeit bills, and that the attempts to pass them in West Virginia constituted a separate conspiracy. However, the conspiracy of which petitioner was a part encompassed both the securing of the counterfeit bills and their subsequent distribution. Indeed, Scaggs testified that prior to traveling to Cleveland he discussed with other co-conspirators methods by which they could distribute the counterfeit bills (Tr. 51-52). Petitioner did not affirmatively withdraw from the conspiracy after his co-conspirators left Cleveland.

A "conspiracy does not lose its character because efficiency or expertise requires a division of labor among the participants." *United States* v. *Goodson*, 502 F.2d 1303, 1306 (C.A. 5); *United States* v. *Agueci*, 310 F.2d 817, 827 (C.A. 2). So long as the individuals who distributed the counterfeit bills did so in furtherance of the conspiracy, it was not necessary to show that petitioner knew of their specific participation or their identities. *Blumenthal* v. *United States*, 332 U.S. 539, 557; *United States* v. *Edwards*, 366 F.2d 853, 867 (C.A. 2), certiorari denied *sub nom. Jakob* v. *United States*, 386 U.S. 908. Petitioner knew that the distribution of counterfeit bills required an organization wider than that which might be disclosed to him by his personal participation. *United States* v. *Edwards*, *supra*. Accordingly, the hearsay statements made by petitioner's co-conspirators in furtherance of the conspiracy were admissible against petitioner. *Pereira* v. *United States*, 347 U.S. 1; *Blumenthal* v. *United States*, *supra*; *United States* v. *Rizzo*, 491 F.2d 215 (C.A. 2), certiorari denied, 416 U.S. 990; *United States* v. *Greer*, 467 F.2d 1064, 1070

(C.A. 7), certiorari denied, 410 U.S. 929; *United States* v. *Friedman*, 445 F.2d 1076 (C.A. 9), certiorari denied *sub nom. Jakob* v. *United States*, 404 U.S. 958; *Nelson* v. *United States*, 415 F.2d 483 (C.A. 5), certiorari denied, 496 U.S. 1060.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ROBERT H. BORK,
*Solicitor General.*

DECEMBER 1974.

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